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SUBJECT: U.S.-CHILEAN JOINT INFRASTRUCTURE ASSISTANCE LAUNCHES IN  
COSTA RICA

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SUMMARY  
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¶1. From May 18-21, a Treasury Department team from the Office of Technical Assistance (OTA) met with Costa Rican government leaders and private sector officials to consider how to meet Costa Rica's national infrastructure challenges. The meetings represented the first step of Treasury's and the Government of Chile's (GOC) joint Infrastructure Finance Experts Corps (IFEC) project, which aims to bring expert advice on financing, tendering, managing, and operating infrastructure projects with an emphasis on public-private partnerships (PPP). The two parties chose Costa Rica as a pilot country for the project in late 2008. Three weeks after the OTA team visit, a Chilean delegation -- plus two OTA Advisors -- conducted a two-day trip featuring meetings and a successful half-day seminar on infrastructure PPPs.

¶2. After the week of OTA meetings, three areas for framing a working relationship between the OTA, the GOC, and the GOCR emerged: (1) identification of specific projects for OTA and GOC assistance and delineation of specific roles for the OTA and the GOC; (2) strengthening the work of the GOCR's Council of Concessions, a multi-ministerial body charged with decision-making on infrastructure projects; and (3) promoting the success of concessions in Costa Rica, a country struggling to make strides in implementing successful concession-driven infrastructure projects. This "first draft" of work areas for the IFEC project in Costa Rica will likely be revised as the initiative evolves. As a backdrop for next steps, the Chilean seminar underscored key elements for successful PPPs including legislative and contract flexibility, dispute resolution, and liberating public resources. The OTA anticipates a second visit with the Chileans in July to advance the IFEC project. This unusual tri-national effort may prove to be an important catalyst for developing Costa Rica's creaky infrastructure. END SUMMARY.

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ACT ONE, SCENE ONE (THE OTA VISIT): THE PLAYERS  
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¶3. OTA Advisors Harry Tether and Barry Gray traveled to Costa Rica for four days of meetings commencing on May 18. Treasury Deputy Assistant Secretary Larry McDonald joined for part of the visit. The OTA team met with a wide variety of players in Costa Rican infrastructure, including:

-- Guillermo Zuniga Chaves, Minister of Finance (Hacienda), Jose Adrian Vargas, Treasurer, Juan Carlos Pacheco, Director, and Melvin Quiros, Deputy Director, Public Credit, Hacienda;

-- Javier Cascante, Director, Superintendency of Pensions (SUPEN);

-- Ronald Vargas, Banco Nacional;

-- Jose Luis Valenciano (PLN), National Assembly member and Chairman of the Finance Committee;

-- Rocio Aguilar, Contraloria (Comptroller) of the GOCR;

-- Guillermo Matamoros, Vice Minister of Concessions, and Pedro Luis Castro, Vice Minister, MOPT Ministry of Public Works and Transportation (MOPT);

-- Luis Gamboa (Vedova & Obando), President, and Lynda Solar, Executive Director, Costa Rican-American Chamber of Commerce (AmCham);

-- Charles Spalding (Trelex), Alonso Arroyo (KPMG), Jose Antonio Munoz (Arias and Munoz), and William Merrigan (P&G), Board Members, AmCham;

-- Jeff Scheferman, President/CEO, and Greg Huang, Vice President of Finance, ADC/HAS (a U.S.-Canadian-Brazilian consortium vying to purchase the operating and development rights to the San Jose airport);

-- Eduardo Sibaja, Minister of Economy, Industry, and Commerce (MEIC);

-- Ambassador Gonzalo Mendoza Negri and Esteban Cordova Tapia, International Cooperation Counselor, Embassy of Chile;

-- Mariela Diaz, Director, and Cecilia Montero, Manager, ProChile;

-- Carlos Jaraquemada Valle, Administrative and Finance Director, Antonio Alonso Jimenez, Project Director, Autopistas del Sol (a

Spanish-led consortium constructing and operating a highway concession in San Jose);

-- Pedro Pablo Quiros, Chief Executive Officer, Instituto de Costarricense Electricidad (ICE), the national electric and telecommunications authority,

-- Rodolfo Lizano Rojas, Legal Director, AyA (the national water authority); and

-- Fernando Quevado, Country Representative, InterAmerican Development Bank.

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ACT ONE, SCENE ONE HIGHLIGHTS I: THUMBS UP  
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14. MEIC Minister Sibaja concisely summarized the GOCR's challenge with infrastructure: "We need to do concessions as we do not have the resources in the government to fund infrastructure improvements." The Minister noted the need to highlight concession success given Costa Rica's history of failing to implement concession projects without legal wrangling and/or a breakdown in project execution. Though Costa has two successful concessions -- Puerto Caldera (the country's secondary port located on the Pacific), and the newly-expanded San Jose-Caldera highway (a work in progress) -- the general populace believes that concessions are a troubled, if not doomed, process, based on experiences with the San Jose airport, the Limon-Moin port, and a planned prison privatization. Also, there is lingering suspicion, fueled by opponents and especially the public sector unions, that concessions represent a "give-away" of valuable public assets to the private sector.

15. MOPT Vice Minister Matamoros welcomed the proposed IFEC process by stating, "We (GOCR) need you to start yesterday." Matamoros also made several observations about the concession process in Costa Rica touching on the lack of expert capacity and problems with acquiring materials; the grating differences between the operating speed of the Costa Rican system (slow) and concessionaires (fast); the potential of using bond funds for financing projects; and the need for a better expropriation law for purchasing land. The meetings with Autopistas del Sol (the Caldera highway concessionaire) and ADC/HAS (poised to take over the languishing San Jose airport

project on July 1) confirmed many of the Vice Minister's observations.

¶6. Minister Zuniga emphasized, as did DAS Treasury McDonald, Costa Rica's need to follow the route of concessions, address the sluggish pace of project implementation, find solutions to inter-governmental coordination (including with the legislature and the Comptroller), and improve ministerial capacity to evaluate projects. The Minister expounded on the special challenges of the Council of Concessions, a GOCR "inter-ministerial" board comprised of the Ministers of MOPT, Hacienda and Planning; the President of the Central Bank; and the Technical Society (private sector representatives). Participation at Council meetings is erratic and there is scant lead time for ministers to assess projects in advance.

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ACT ONE, SCENE ONE HIGHLIGHTS II: CHALLENGES  
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¶7. Comptroller Aguilar occupies a controversial post in Costa Rica as her office has grown into an increasingly (and perhaps overly) powerful body in recent years. Appointed by the National Assembly, the Comptroller can both forecast a project's viability and later audit the same project, but without responsibility of having to answer to the (in)accuracy of the original forecast. That responsibility lies with the "sponsoring" ministry, which in turn seeks to avoid problems by deferring to the Comptroller's Office from the outset. As other public officials told OTA and the Chileans, the Comptroller thus accumulates decision-making authority for ministries by default, since mid-level staffs willingly defer decisions to the Comptroller to avoid responsibility for their own decisions (and possible legal action against them).

¶8. Thus, the Comptroller operates as a shadow of the executive and legislative branches, using its resident expertise in law, engineering, auditing, finance, and public administration to "legally" second guess either or both on decisions. Yet, the Comptroller does not desire its now-elevated profile. Aguilar noted that the Comptroller might be subject to "less criticism" if its function were more operational and less focused on the evaluation of program results.

¶9. Chilean Ambassador Mendoza voiced his exasperation with governmental progress in Costa Rica, using both the CAFTA saga and concessions as "poster child" examples. The Ambassador urged the participants in IFEC to promote and publicize positive infrastructure news. A similar challenge existed in Chile, he explained, but the GOC steadfastly changed prevailing public opinion through skillful public relations and successful project execution.

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ACT ONE, SCENE ONE HIGHLIGHTS III: FINANCING  
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¶10. Ronald Vargas, Banco Nacional's (BNCR) investment bank director, described the "fidiecomiso," or trust structure, for creating public-private partnerships. For each project, BNCR establishes a trust, which issues bonds on the local market, purchases land, hires contractors, and constructs the capital asset. The trust then leases the asset to a government agency. Once the trust pays the bondholders, BNCR will dissolve the trust and transfer the asset to an agency. As examples, Vargas cited two successful power plant projects: Penas Blancas (USD 70 million), near the Nicaraguan border, and Cariblanco (USD 170 million), in the mountains northeast of San Jose. Both were built for the state-owned Electrical Institute (ICE). The limited local capital market and the Comptroller's initial skepticism towards the trust framework represented two major challenges, however. Vargas believes that project success established the credibility of the concept and demonstrated how future projects can clear approval hurdles. (To date, BNCR has financed four projects with the "fidiecomiso" scheme valued at USD 295 million and has new project approvals valued at USD 470 million).

¶11. SUPEN Director Cascante indicated that the Costa Rican capital market can absorb future bond offerings. He supports the Pension

Funds' use of bonds issued by infrastructure trusts, underscoring the Funds' growing financing potential manifested by annual increases of USD 200-250 million. Pension funds can invest heavily in trusts pioneered by BNCR's Ronald Vargas because those projects are classified as "private" -- even though they finance infrastructure that will become public once the trust pays off the bonds. Costa Rican law limits the pension funds to invest 60 percent of their funds in GOCR bonds. There is no similar limit for private bonds.

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ACT ONE, SCENE TWO (THE CHILEAN VISIT): THE PLAYERS  
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¶12. Representatives from the GOC visited Costa Rica June 8-9 for meetings and a half-day seminar. Treasury OTA Advisors Steven Hochman and Jeanine Corvetto participated in both the meetings and the seminar. Hosted by the Chilean Embassy and ProChile (a GOC trade promotion agency), the Chilean Delegation included the following:

- Juan Eduardo Saldivia, Subsecretario, Ministerio de Obras Publicas (MOP);
- Leonel Vivallos, Coordinador de Concesiones, MOP;
- Ivan Martens, Agencia de Cooperacion Internacional de Chile; and
- Javier Hurtado, Director, Camara de la Construccion Chile.

As with the TREAS OTA team in May, the Chilean delegation and OTA Advisors met VM Matamoros and Comptroller Aguilar. Additional officials included Hacienda Vice Minister Jenny Phillips, Director Randall Murillo and some ten members of the Chamber of Construction, a Board member of the Council of Concessions, and a mayor of a city adjacent to San Jose.

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ACT ONE, SCENE TWO HIGHLIGHTS I: SEMINAR SUCCESS  
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¶13. At the June 9 seminar, the Chilean delegation highlighted for the 70-member audience Chile's impressive PPP accomplishments across a diverse range of projects, including highways, airports, stadiums, prisons, public buildings, and intermodal transfer stations. Key recommendations included legislative and contract flexibility, guaranteed financing, practical regulations, creditor protection, agreement on risk assignment, and a dispute resolution process. Repeatedly, the delegation stressed the concession advantage as increasing competitiveness and productivity, liberating public resources (for social investment), and spurring private sector

innovation. Under the rubric of IFEC, the Chileans want to make a difference and project their success elsewhere in the Americas.

¶14. The OTA Advisors presented both the advantages and disadvantages of PPPs when compared to traditional approaches while noting how PPPs are an important additional tool for developing infrastructure. They also noted the importance of achieving an appropriate allocation of risk between the public and private partners when creating a PPP.

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ACT ONE, SCENE TWO HIGHLIGHTS II: CHALLENGES  
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¶15. In meetings with the Comptroller and the GOC, the two OTA Advisors concluded that the Comptroller's Office takes a more skeptical view of the concessions/PPP approach than does the Finance Ministry, a possible source of friction as the IFEC initiative develops. Also, in the mayoral meeting, we learned that the municipal sector sorely lacks the resources for infrastructure development and thus welcomes the PPP approach as an opportunity to bolster public services.

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ACT ONE, BOTH SCENES: THE PRODUCERS  
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¶16. Treasury OTA found supporting funds for the OTA's participation in IFEC within Treasury. The Chileans dedicated funds to support their part of the program, independent of U.S. funds. In anticipation of the project moving forward, the Chileans started working with VM Matamoros well in advance of the OTA visit to Costa Rica.

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COMMENTS  
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¶17. The OTA team and the Embassy identified three near-term issues for future meetings and work: (1) collaborating with the GOCR to select specific IFEC project(s) and define specific areas of focus for the IFEC team; (2) increasing the effectiveness of the Council of Concessions; and (3) publicizing concession and public-private partnership successes. The Chilean emphasis on how to structure successful PPPs, while acknowledging problems, can provide vital, practical, and experience-based assistance to the GOCR and its turgid legal and governing system. The generally positive GOCR view of Chile as a model to emulate in many areas may also help.

¶18. On the other hand, the messy business of inter-ministerial and inter-agency coordination in Costa Rica -- with the Comptroller's Office in a pivotal and disproportionately powerful position -- remains an exogenous drag on any public works project, with or without PPPs. Throw in the Comptroller's protracted and excessively deliberative due diligence, which is compounded by Costa Rica's hyper-legalism and penchant for "perfect consensus," and systemic solutions become daunting and elusive. Nevertheless, we view IFEC as one promising solution to Costa Rica's infrastructure woes.

CIANCHETTE